

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**JOSEPH BODZIONY,**

**Appellant,**

**v.**

**BLUE CROSS and BLUE SHIELD OF KANSAS CITY,**

**Respondent.**

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**DOCKET NUMBER WD71925**

**Date: February 15, 2011**

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Appeal from:  
Jackson County Circuit Court  
The Honorable Ann Mesle, Judge

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Appellate Judges:  
Division Two: Joseph M. Ellis, P.J., Alok Ahuja and Karen King Mitchell, JJ.

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Attorneys:  
John B. Boyd and Brianne Niemann, Kansas City, MO, for appellant.  
John W. Cowden and Jarod G. Goff, Kansas City, MO, for respondent.

# **MISSOURI APPELLATE COURT OPINION SUMMARY**

## **COURT OF APPEALS -- WESTERN DISTRICT**

**JOSEPH BODZIONY**

**Appellant,**

**v.**

**BLUE CROSS and BLUE SHIELD OF KANSAS CITY,**

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WD71925

Jackson County

Before Division Two Judges: Joseph M. Ellis, P.J., Alok Ahuja and Karen King Mitchell, JJ.

Joseph Bodziony suffered a work-related shoulder injury which eventually required surgery. His health insurer, Blue Cross and Blue Shield of Kansas City, initially paid his medical bills. Bodziony later filed a workers' compensation claim. He was denied recovery of his surgical costs because he had not given his employer advance notice and an opportunity to select his medical providers.

Upon learning that Bodziony's injury was work-related, Blue Cross revoked its payment of his medical bills, based on a policy exclusion for injuries "covered or required to be covered by a workers' compensation benefit." Bodziony sued Blue Cross to challenge this coverage determination. The circuit court granted Blue Cross summary judgment.

**REVERSED AND REMANDED.**

**Division Two holds:**

The health insurance policy at issue excludes coverage "[f]or injuries or illnesses related to Your job to the extent You are covered or required to be covered by a workers' compensation benefit whether or not You file a claim." While the reference to injuries "covered or required to be covered" by a workers' compensation benefit is susceptible to the reading Blue Cross advocates (in which the exclusion applies whenever an injury is of a type that falls within the scope of a workers' compensation policy), the term "covered or required to be covered" is also subject to the interpretation that the insured is only to be denied health insurance benefits where he is actually compensated for his medical expenses by way of a workers' compensation claim. It is significant in this connection that the Administrative Law Judge who decided Bodziony's workers' compensation claim stated that Bodziony's medical expenses were "not covered by Chapter 287 R.S.Mo" due to Bodziony's failure to timely notice his employer.

Other provisions of Blue Cross' policy are subject to the same duplicity of meaning, including a reference to "compensable" claims, and to claims "paid or payable," or for which the insured "could have received payment," from workers' compensation.

Insurance policy language is ambiguous where it is subject to multiple reasonable readings, like the relevant language of Blue Cross' policy here. Missouri law holds that in such circumstances, we must adopt the interpretation of ambiguous policy language which favors the insured and the grant of coverage.

Because Bodziony did not receive compensation for his past medical expenses through his workers' compensation claim, the workers' compensation exclusion in Blue Cross' health insurance policy did not operate to deny him health insurance coverage.

**Opinion by: Alok Ahuja, Judge**

February 15, 2011

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